IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 4094 of 2006

ONKAR SINGH & ANR.
V/S
A.D.J.NATHDWARA & ORS.

Mr. TRIBHUVAN GUPTA, for the appellant / petitioner

Mr. ARUN BHANSALI, for the respondent

Date of Order : 16.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

By the impugned order, the learned trial Court has dismissed the petitioner's application for setting aside ex-parte proceedings. It was inter-alia contended in the application that the counsel engaged by them without informing them pleaded no instructions.

The learned trial Court found that there are material on record, which shows that the defendant was purportedly informed about the date of hearing fixed in the case, he kept silence, and that steps for compromise were also taken, but they could not be materialised, and finding no sufficient ground for the long silence, has dismissed the application.

It is informed by learned counsel for the parties that the suit is at the stage of final arguments. In my view,in such circumstances, it would not be expedient in

the interest of justice for me to interfere with the impugned order. The writ petition is, therefore, dismissed summarily. It is, however, clarified that it will be open to the petitioner to assail the correctness, legality, or propriety of the impugned order by setting forth appropriate ground in appeal, if necessity so arises, and if the petitioner so stands advised.

(N P GUPTA),J.

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